

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

(1) KIMBERLY POFF,

Plaintiff,

v.

Case No. 5:14-cv-01438-C

(1) STATE OF OKLAHOMA *ex rel* THE
OKLAHOMA DEPARTMENT OF
MENTAL HEALTH AND
SUBSTANCE ABUSE SERVICES;
(2) THE BOARD OF DIRECTORS FOR
THE OKLAHOMA DEPARTMENT
OF MENTAL HEALTH AND
SUBSTANCE ABUSE SERVICES,
et al

Defendants.

**WITNESS AND EXHIBIT LISTS OF DEFENDANTS
STATE OF OKLAHOMA EX REL. THE OKLAHOMA DEPARTMENT OF
MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES AND THE BOARD
OF DIRECTORS FOR THE OKLAHOMA DEPARTMENT OF MENTAL
HEALTH AND SUBSTANCE ABUSE SERVICES**

Defendants, State of Oklahoma *ex rel* The Oklahoma Department of Mental Health and Substance Abuse Services and The Board of Directors for the Oklahoma Department of Mental Health and Substance Abuse Services (“Defendants”) submit their Witness and Exhibit Lists as follows:

WITNESS LIST

<u>No.</u>	<u>Name and Address</u>	<u>Proposed Testimony</u>	<u>Expectation</u>
1.	Terri White, c/o Victor F. Albert Conner & Winters, LLP 1700 One Leadership Sq. 211 N. Robinson Ave. Oklahoma City, Oklahoma 73102 (405) 272-5711 (405) 232-2695	To be deposed. All facts regarding Plaintiff's employment, the investigation into her conduct and reasons for termination of her employment; that Plaintiff's gender had no part of the decision to terminate her employment; the decision to terminate the employment of Robert Peake, Plaintiff's predecessor in the Inspector General job position, and to terminate the employment of Michael DeLong, both of which are males; that the Department was Plaintiff's employer, and that the Board was not Plaintiff's employer; all facts regarding the applicable employment policies and procedures relevant to Plaintiff's employment and the termination of it; all facts necessary to refute or respond to any allegations made by Plaintiff of discrimination in the decision to terminate her employment; all other facts to which she has personal knowledge and which refute any allegations by Plaintiff..	Will Call

<u>No.</u>	<u>Name and Address</u>	<u>Proposed Testimony</u>	<u>Expectation</u>
2.	Durand Crosby c/o Victor F. Albert Conner & Winters, LLP 1700 One Leadership Sq. 211 N. Robinson Ave. Oklahoma City, Oklahoma 73102 (405) 272-5711 (405) 232-2695	To be deposed. All facts regarding Plaintiff's employment, the investigation into her conduct and reasons for termination of her employment; that Plaintiff's gender had no part of the decision to terminate her employment; that the Department was Plaintiff's employer, and that the Board was not Plaintiff's employer; all facts regarding the applicable employment policies and procedures relevant to Plaintiff's employment and the termination of it; all facts necessary to refute or respond to any allegations made by Plaintiff of discrimination in the decision to terminate her employment; that he was the direct supervisor who made the decision to terminate the employment of James Bond, and to not take disciplinary action following the investigation of the relationship between Dewayne Moore and Robin Wilson Moore, and the facts and reasons for those actions; all facts to refute any allegations by Plaintiff of better comparative treatment of these particular male employees because of their gender; all other facts to which she has personal knowledge and which refute any allegations by Plaintiff.	Will Call

<u>No.</u>	<u>Name and Address</u>	<u>Proposed Testimony</u>	<u>Expectation</u>
3.	Ellen Buettner, c/o Victor F. Albert Conner & Winters, LLP 1700 One Leadership Sq. 211 N. Robinson Ave. Oklahoma City, Oklahoma 73102 (405) 272-5711 (405) 232-2695	To be deposed. All facts regarding Plaintiff's employment, the investigation into her conduct and reasons for termination of her employment; that Plaintiff's gender had no part of the decision to terminate her employment; that the Department was Plaintiff's employer, and that the Board was not Plaintiff's employer; all facts regarding the applicable employment policies and procedures relevant to Plaintiff's employment and the termination of it; all facts necessary to refute or respond to any allegations made by Plaintiff of discrimination in the decision to terminate her employment; all other facts to which she has personal knowledge and which refute any allegations by Plaintiff.	Will Call
4.	David Milnes P.O. Box 1358 Bethany, OK 73008	Deposed. His background and experience on investigations; the third-party relationship that he had with the Department; his retention for the investigation into Plaintiff's conduct; all facts regarding the investigation, his findings, and providing those to the Department; all facts to refute any criticism of his investigation; all other facts to which he has personal knowledge and which refute any allegations by Plaintiff.	Will Call

<u>No.</u>	<u>Name and Address</u>	<u>Proposed Testimony</u>	<u>Expectation</u>
5.	Dewayne Moore c/o Victor F. Albert Conner & Winters, LLP 1700 One Leadership Sq. 211 N. Robinson Ave. Oklahoma City, Oklahoma 73102 (405) 272-5711 (405) 232-2695	To be deposed. His role in the investigation into Plaintiff's conduct in July 2013 regarding the Chris Flanagan investigation, and his interview by David Milnes in that investigation; the legal consult in the investigation; Department policies at issue in this lawsuit by virtue of Plaintiff's conduct and allegations; his relationship with Robin Wilson Moore; all facts necessary to refute or respond to any allegations made by Plaintiff of discrimination in the decision to terminate her employment; all other facts to which she has personal knowledge and which refute any allegations by Plaintiff.	Will Call
6.	Hannah Cable c/o Victor F. Albert Conner & Winters, LLP 1700 One Leadership Sq. 211 N. Robinson Ave. Oklahoma City, Oklahoma 73102 (405) 272-5711 (405) 232-2695	Deposed. The events on July 9, 2013 regarding statements made to her, impressions she formed based on those statements; statements she made to Plaintiff and others; her interview with David Milnes about the events that day; her feelings and observations regarding the relationship between Dewayne Moore and Robin Wilson Moore, and that there was no hostile work environment, and that she did not make a complaint of such; all other facts to which she has personal knowledge and which refute any allegations by Plaintiff.	Will Call

<u>No.</u>	<u>Name and Address</u>	<u>Proposed Testimony</u>	<u>Expectation</u>
7.	Allen Shaffer c/o Victor F. Albert Conner & Winters, LLP 1700 One Leadership Sq. 211 N. Robinson Ave. Oklahoma City, Oklahoma 73102 (405) 272-5711 (405) 232-2695	Deposed. The events on July 9, 2013 regarding statements made to him, impressions he formed based on those statements; statements he made to Plaintiff, Michael DeLong and others; his interview with David Milnes about the events that day; his feelings and observations regarding the relationship between Dewayne Moore and Robin Wilson Moore, and that there was no hostile work environment, and that he did not make a complaint of such; all other facts to which he has personal knowledge and which refute any allegations by Plaintiff.	Will Call
8.	Jason Maddox c/o Victor F. Albert Conner & Winters, LLP 1700 One Leadership Sq. 211 N. Robinson Ave. Oklahoma City, Oklahoma 73102 (405) 272-5711 (405) 232-2695	Deposed. The events on July 9, 2013 regarding statements made to him, impressions he formed based on those statements; statements he made to Plaintiff, Michael DeLong and others; his interview with David Milnes about the events that day; his feelings and observations regarding the relationship between Dewayne Moore and Robin Wilson Moore, and that there was no hostile work environment, and that he did not make a complaint of such; statements made by Plaintiff to him that she was frustrated and angered by not being assigned the investigation and review of the relationship between Dewayne Moore and Robin Wilson Moore; all other facts to which he has personal knowledge and which refute any allegations by Plaintiff.	Will Call

<u>No.</u>	<u>Name and Address</u>	<u>Proposed Testimony</u>	<u>Expectation</u>
9.	Jill Amos c/o Victor F. Albert Conner & Winters, LLP 1700 One Leadership Sq. 211 N. Robinson Ave. Oklahoma City, Oklahoma 73102 (405) 272-5711 (405) 232-2695	Deposed. The communications involving her and Plaintiff regarding the investigation into her complaint against Chris Flanagan; the events of July 8 and 9 regarding the phone call from Ellen Buettner regarding Chris Flanagan covering the presentation of a portion of the NEO program; her contact with and meeting with Plaintiff; her interviews with David Milnes; her working with Durand Crosby and Ellen Buettner.	Will Call
10.	Carrie Slatton-Hodges c/o Victor F. Albert Conner & Winters, LLP 1700 One Leadership Sq. 211 N. Robinson Ave. Oklahoma City, Oklahoma 73102 (405) 272-5711 (405) 232-2695	That she was the direct supervisor who made the decision to terminate the employment of Chris Flanagan and Randy May and to demote Jeff Smith, and the facts and reasons for those actions; all facts to refute any allegations by Plaintiff of better comparative treatment of these particular male employees because of their gender.	May Call
11.	Larry Gross c/o Victor F. Albert Conner & Winters, LLP 1700 One Leadership Sq. 211 N. Robinson Ave. Oklahoma City, Oklahoma 73102 (405) 272-5711 (405) 232-2695	That he was the direct supervisor who made the decision regarding the disciplinary action as to Robert Harshaw, and the facts and reasons for those actions; all facts to refute any allegations by Plaintiff of better comparative treatment of this particular male employee because of his gender.	May Call
12.	Michael DeLong	Deposed.	May Call
13.	Plaintiff	Deposed.	May Call
14.	Ed Lake, Tony Bryan or other Representative of Department of Human Services	That Plaintiff was hired by the DHS, her rate of pay and beginning date of employment.	May Call
15.	All witnesses necessary to rebut Plaintiff's claims		

<u>No.</u>	<u>Name and Address</u>	<u>Proposed Testimony</u>	<u>Expectation</u>
16.	All witnesses necessary to authenticate documents		
17.	All witnesses listed by Plaintiff not objected to by Defendants		

EXHIBIT LIST

<u>No.</u>	<u>Description</u>	<u>Identification/Bates Label</u>	<u>Expectation</u>
1.	K. Poff Personnel File	ODMH 000671 – 000731	Will Use
2.	DMHSAS Investigations – Employee’s Responsibilities and Rights – DMHSAS 5.12	ODMH 000941 - 000945	Will Use
3.	Discrimination Complaint and Investigation Procedure – DMHSAS 7.1	ODMH 000946 - 000949	Will Use
4.	Equal Employment Opportunity and Non-Discrimination – DMHSAS 7.2	ODMH 000950 – 000951	Will Use
5.	Sexual Harassment Prevention and Correction – DMHSAS 7.5	ODMH 000952 - 000953	Will Use
6.	Employee Code of Ethics – DMHSAS 5.4	ODMH 001048 - 001049	Will Use
7.	Workforce Utilization – DMHSAS 7.3	ODMH 001050	Will Use
8.	Reasonable Accommodation – DMHSAS 7.4	ODMH 001051 - 001054	Will Use
9.	DMHSAS Investigations – Employee’s Responsibilities and Rights – DMHSAS 5.12 – effective 8-1-05	ODMH 001055 - 001056	Will Use
10.	Discipline – DMHSAS 5.8	ODMH 001057 - 001062	Will Use
11.	Use of State-Owned Motor Vehicles – DMHSAS 5.14	ODMH 001063 - 001065	Will Use

<u>No.</u>	<u>Description</u>	<u>Identification/Bates Label</u>	<u>Expectation</u>
12.	Employee Performance Management Process – DMHSAS 5.5	ODMH 001174 - 001175	Will Use
13.	Conflict of Interest – DMHSAS 5.3	ODMH 001171 - 001173	Will Use
14.	Confidentiality of Human Resources Management Employee Records – DMHSAS 5.2	ODMH 001168 - 001170	Will Use
15.	ODMHSAS Organization Charts	ODMH 000954 – 000974	Will Use
16.	Various emails	ODMH 000904 – 000924	Will Use
17.	D. Milnes Investigation File	ODMH 000128 – 000160, and ODMH 000176-000670	Will Use
18.	Summary and analysis of D. Milnes Investigation File	ODMH 000161 - 000175	Will Use
19.	Outside Legal Opinions on relationship between Dewayne Moore and Robin Wilson Moore	ODMH 000925 – 000940	Will Use
20.	Board Reports, documents and emails regarding investigation into relationship between Dewayne Moore and Robin Wilson Moore	ODMH 001070 - 001109	May Use
21.	K. Poff EEOC File	ODMH 000072 – 000127	Will Use
22.	Department documents showing salary of the four employees assigned to the Legal Department in March 2013	ODMH 001066 - 001069	May Use
23.	Investigation Report and disciplinary action document as to investigation into the conduct of James Bond	ODMH 001110 - 001120	May Use

<u>No.</u>	<u>Description</u>	<u>Identification/Bates Label</u>	<u>Expectation</u>
24.	Investigation Report and disciplinary action document as to investigation into the conduct of Chris Flanagan	ODMH 001121 - 001134	May Use
25.	Investigation Report and disciplinary action document as to investigation into the conduct of Randy May	ODMH 001148 - 001154	May Use
26.	Investigation Report and disciplinary action document as to investigation into the conduct of Jeff Smith	ODMH 001155 - 001167	May Use
27.	Investigation Report and disciplinary action document as to investigation into the conduct of Robert Harshaw	ODMH 001135 – 001147	May Use
28.	K. Poff's Employee File from Francis Tuttle Technology Center	FTVT 000001 – 000078	May Use
29.	K. Poff's Employee File from the Oklahoma Department of Human Services	ODHS Docs 000001 – 000170	May Use
30.	Department policies and procedures and training video provided to employees covering topics of employment issues, discrimination and retaliation		May Use
31.	K. Poff's Responses to ODMHSAS and Board's Discovery Requests		May Use
32.	All demonstrative exhibits prepared in accordance with local rule		May Use
33.	All documents that are admissible in evidence and produced in response to outstanding subpoenas		May Use

<u>No.</u>	<u>Description</u>	<u>Identification/Bates Label</u>	<u>Expectation</u>
34.	All exhibits listed by Plaintiff not objected to by the ODMHSAS and/or Board		May Use
35.	All exhibits necessary for impeachment		May Use
36.	Any documents identified during the course of further discovery		May Use

Discovery is still ongoing in this case; as a result, Defendants reserve the right to amend its Final Witness and Exhibit Lists to the extent additional witnesses and/or documents are identified through the course of further discovery.

Respectfully submitted,

/s/ Victor F. Albert

VICTOR F. ALBERT, OBA #12069
MATTHEW L. WARREN, OBA #31260
CONNER & WINTERS, LLP

1700 One Leadership Square
211 North Robinson
Oklahoma City, OK 73102
Telephone: (405) 272-5711
Facsimile: (405) 232-2695

valbert@cwlaw.com

mwarren@cwlaw.com

*Attorneys for Defendants, State of Oklahoma
ex rel. The Oklahoma Department of Mental
Health and Substance Abuse Services and The
Board of Directors for The Oklahoma
Department of Mental Health and Substance
Abuse Services*

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of March 2016, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Rachel L. Bussett, OBA #19769
Ashley Weyland, OBA # 32141
THE BUSSETT LEGAL GROUP, PLLC
Mid-Town Plaza Law Center
414 NW 4th St., Suite 200
Oklahoma City, OK 73102
Telephone: (405) 605-8073
Facsimile: (405) 601-7764
rachel@bussettlaw.com
ashley@bussettlaw.com
Attorneys for Plaintiff

Jeremy Tubb, OBA #16739
Matthew S. Panach, OBA #22262
FULLER, TUBB, BICKFORD & KRAHL
201 Robert S. Kerr, Suite 1000
Oklahoma City, OK 73102
Telephone: (405) 235-2575
Facsimile: (405) 232-8384
jeremy.tubb@fullertubb.com
panach@fullertubb.com
Attorneys for Defendants
Terri White, Durand Crosby,
Cratus Dewayne Moore, and Ellen Buettner

/s/ Victor F. Albert
VICTOR F. ALBERT